

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Herbert Irschik et al.
APPLICATION NO.: 10/646,904 GROUP NO.: 1612
FILING DATE: August 22, 2003 EXAMINER: Sabiha Naim Qazi
TITLE: Use of Disorazoles and Their Derivatives for the Treatment of Benign
and Malignant Oncoses

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATEMENT OF THE SUBSTANCE OF INTERVIEW

Sir / Madam:

This Statement of the Substance of Interview is submitted in response to the Interview Summary mailed from the United States Patent and Trademark Office on April 1, 2009. Applicants thank the Examiner for the courtesy of a telephonic interview that took place on February 17, 2009.

The following is intended to constitute a proper recollection of that interview in accordance with MPEP § 713.04.

As a preliminary matter, Applicants wish to summarize herein and make of record relevant events in the prosecution history of the subject application that prompted the February 17, 2009 examiner interview:

- A Final Office Action issued May 2, 2008, which stated that claims 1-3 and 14 are allowed, and claims 4, 5, 9-13 and 18 are rejected.
- On July 31, 2008 a Reply to Final Office Action was filed.
- In a September 19, 2008 Advisory Action, the Examiner again stated that claims 1-3 and 14 are allowed but upheld the rejection of claims 4, 5, 9-13 and 18.
- On October 29, 2008, *before* the 6-month statutory deadline of November 2, 2008 for submitting a Reply, an Amendment was filed only cancelling all rejected claims (Claims 4, 5, 9-13 and 18), and leaving allowed claims (Claims 1-3 and 14) in compliance with 37 C.F.R. §1.116.

- A December 4, 2008 Advisory Action issued, which stated that “claims as amended are not allowable. Applicants argue that claim 1 has been amended to overcome the rejection. Claim 1 has not been amended.” The Action further stated that “Applicants say that examiner has allowed claims 1-3 and 14 which is on page 7 of the office action. There is no indication of allowability of any claim neither on page 7 nor anywhere in the office action.” *The remarks in the December 4, 2008 Advisory Action are incorrect. Applicants did not amend claim 1 in the July 31, 2008 Reply. In addition, page 7 of the May 2, 2008 Office Action does indicate that claims 1-3 and 14 are allowed.*
- A February 6, 2009 Interview Summary indicated that the Examiner and Ms. Xu discussed the allowability of claims 1-3 and 14 on December 16, 2008. The Interview Summary stated that “Examiner discussed the issues in detail and told Ms. Xu that the application was forwarded to the examiner at the time when technically 8 months period was over. Final rejection was mailed on 5/02/08. Advisory action contains inadvertent typing error and should not have been mailed due to the 8 month date.” Applicants wish to clarify for the record that the 6-mth deadline for filing a response to the May 2, 2008 Office action was November 2, 2008. Though it appears that the Receiving Office was slow to forward the Applicants’ Amendment to the Examiner, *it was timely submitted and stamped by the Patent Office with a filing date of **October 29, 2008**, which is before the statutory deadline of November 2, 2008.*
- The February 6, 2009 Interview Summary also indicated that the Examiner would discuss how to proceed with the supervising examiner Krass Frederick.

Applicants’ representative initiated the follow-up February 17, 2009 interview to inquire what the status of the application was and to determine whether Applicants needed to take any further action to further the allowance of the application. Accordingly, during the February 17, 2009 interview between Examiner Qazi and Applicants’ representative, Q. Hong Xu, the status of the application and pending claims 1-3 and 14 were again discussed. Examiner Qazi stated that the case will be allowed pending additional patentability searches. Ms. Xu also authorized the Examiner to make minor amendments to the claims if they are otherwise deemed allowable.

Applicants believe that no fee is due in connection with the submission of this Statement. If, however, any fees are due, the Commissioner is hereby authorized to charge them to Deposit Account No. 06-0923. Applicants request that a telephone call be placed to Applicants' agent listed below if any additional action is necessary to expedite the allowance of this application.

Respectfully submitted for Applicants,

A handwritten signature in cursive script, appearing to read "Amanda L. Willis", written over a horizontal line.

Date: April 24, 2009

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